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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,544	09/22/2003	Matthew Bells	555255012571	9931

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EXAMINER
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LAM, DUNG LE

ART UNIT	PAPER NUMBER
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2687

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/667,544	<b>Applicant(s)</b> BELLS ET AL.	
	<b>Examiner</b> Dung Lam	<b>Art Unit</b> 2687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 October 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 5,8-10 and 13-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-7, 11, 12 and 25-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims **1, 2, 6, 11, 12, 26 and 28** are rejected under 35 U.S.C. 102(b) as being anticipated by **Agrawal** (US Pub. No. 2002/0083127).
2. Regarding **claim 1, Agrawal** teaches a method of instant messaging, comprising the steps of: providing a plurality of messaging clients capable of transmitting instant messages to one another (para. 4, 24); each of the plurality of messaging clients configured to share presence (para. 26) information with one another via a network presence server (abstract, para. 28) and inherently maintains a state table (para. 53) entry for each of the messaging clients indicating: either one of a plurality of known (available, para. 25) states when the server is aware of the present state of the messaging client or an unknown state when the server is not aware of the present state (lack of user presence is the same as the server not being aware of the present state, para. 51) of the messaging client and for each of the plurality of messaging clients, the presence server (a) accessing the state table entries to determine whether a messaging client is in a first known state in which it is receptive to receiving presence information

from the other messaging clients or whether the messaging client is in the unknown state (para. 51, data delivery should be canceled if lack of user presence; in order to determine to deliver data or not, the presence must have been accessed) (b) if the messaging client is in the first known states then transmitting presence information from the other messaging clients to the messaging client via the network and (para. 50) (c) if the messaging client is in the unknown state then inhibiting the transmission of presence information from the other messaging clients to the messaging client until the state table entry for the messaging client transitions to the first known state (para. 51).

3. Regarding **claim 2, Agrawal** teaches all the limitations as in claim 1 (see claim 1 above). He further teaches a step in which each of the plurality of messaging clients, the presence server setting a communication timer to a predetermined value that, when expired, will put the messaging client into an unknown state if no communications are received at the presence server from the messaging client before the timer expires (After a predetermined period of time expires without user activity on the application or user response is received, a status becomes "absent", para. 52).

4. Regarding **claim 6, Agrawal** teaches all the limitations as in 1 (see claim 1 above). **Agrawal** further teaches the step of: each of the plurality of messaging clients having a buddy list of other messaging clients with which the messaging client is interested in communicating with (para 26); when the messaging client is in a first known state in which it is receptive to receiving presence information, then obtaining presence information for each of the other messaging clients on the buddy list (para. 44 and 50).

Art Unit: 2687

5. Regarding **claim 11**, Agrawal teaches all the limitations as in 1 (see claim 1 above.) Agrawal further teaches the step of: transmitting instant messages between two of the messaging clients having presence information regarding one another (para. 25).
6. Regarding **claim 12**, Agrawal teaches all the limitations as in 3 (see claim 3 above.) Agrawal further teaches the steps of the trigger signal is generated when an instant messaging application is turned off (para. 26, application logs out, presence is changed to inactive).
7. Regarding **claim 26**, Agrawal teaches the method of claim 25, wherein the known state is the first known state in which the messaging client is receptive to receiving presence information from the other messaging clients (para. 50).
8. Regarding **claim 28**, Agrawal teaches the method of claim 1, further comprising the steps of: as long as the messaging client is in the first known state, the presence server periodically transmitting presence information (presence updates at regular time intervals para. 25) from the other messaging clients to the messaging client; the presence server receiving an indication from the network that a periodic transmission of the presence information has not been successfully delivered to the messaging client (para. 52); and inhibiting the periodic transmission of presence information to the messaging client until the network indicates that the messaging client is once again able

to receive transmissions (delivery should be canceled due to lack of user presence para. 51).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims **3, 25, 27** are rejected under 35 U.S.C. 103(b) as being unpatentable over **Agrawal** (US Pub. No. 2002/0083127).

11. Regarding **claim 3**, **Agrawal** teaches all the limitations as in claim 1 (see claim 1 above). Although he does not explicitly teach a step in which: for each of the plurality of messaging clients, detecting a trigger signal indicating that the messaging client should be put into an unknown state in which it is not receptive to receiving presence information from each of the other messaging clients. **Agrawal** teaches a step in which a communication timer is set to a predetermined value that, after a number of times or re-send and a predetermined timer expired, the IM proxy drops the message and indicate to the IM server that the mobile is unavailable (Col. 5, para. 0052). Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention

to not send any presence update to an idle or unknown status user since it would avoid unnecessary use of radio resource.

12. Regarding **claim 25**, Agrawal teaches the method of claim 1. Although he fails to explicitly further the steps of: after step (c), detecting a communication from the messaging client at the presence server and in response thereto, transitioning the state table entry for the messaging client from the unknown state to a known state. The concept of transitioning from one state to another is known in instant messaging (e.g. on-line to idle, or idle to on-line). Therefore, it would have been obvious for one skilled in the art at the time of the invention to have a transition state to indicate a more up-to-date status of the user.

13. With further regard to **claim 27**, Agrawal teaches the method of claim 26, further comprising the step of detecting that the messaging client has transitioned from the unknown state to the first known state and in response thereto (see claim 25), transmitting presence information for the other messaging clients to the messaging client (para. 50).

14. Claim **4** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Agrawal** (US Pub. No. 2002/0083127) in view of **Mathis** (US publication No. 2003/0083046).

15. Regarding **claim 4**, Agrawal teaches all the limitations as in claim 1 (see claim 1 above). However, he fails to explicitly teach a step in which transmitting presence information directly from each of the plurality of messaging clients to the other messaging clients. In an analogous art, **Mathis** teaches that the presence updates are directly sent to other client devices rather than the server. Therefore, it would have

Art Unit: 2687

been obvious for one of ordinary skill in the art at the time of the invention to combine Agrawal's teaching with Mathis to send the presence update directly to other clients to allow the presence to be updated faster instead of going through more intermediate points.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-4, 6-7, 11, 12 and 25-28 filed on 10/6/05 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Lam whose telephone number is (571) 272-6497.


The examiner can normally be reached on M - F 9 - 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

12/22/2005

  
SONNY TRINH  
PRIMARY EXAMINER